

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

November 13, 2015

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 15KD-180

Kauai

Issuance of Right-of-Entry Permit to the County of Kauai on State Unencumbered Beach Lands for Emergency Temporary Shore Protection, Aliomanu Road, Anahola, Kauai, Tax Map Key (4) 4-8-018:028, 029.

APPLICANT:

County of Kauai

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Aliomanu Road, Anahola, Kauai, identified by Tax Map Key (4) 4-8-018:028 & 029, as shown on the attached map labeled Exhibits A & B.

AREA:

60 square feet (12' x 5'), more or less.

ZONING:

State Land Use District: Urban
County of Kauai CZO: Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CHARACTER OF USE:

Temporary Shoreline Protection Purposes.

CONSIDERATION:

Gratis. This requested use is for a non-commercial purpose to a government agency.

TERM OF RIGHT-OF-ENTRY:

Three (3) years from October 6, 2015 as per OCCL. (See Exhibit C)

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

See Exhibit D.

DCCA VERIFICATION:

As a government entity, applicant is not required to register with DCCA.

APPLICANT REQUIREMENTS:

Applicant shall be required to comply with the following:

- 1) Terms and Conditions of Emergency Authorization Permit KA-16-03 issued by OCCL on October 6, 2015. (See Exhibit C)
- 2) Terms and Conditions of Right-of-Entry Permit.

REMARKS:

Department of Land and Natural Resources, Office of Conservation and Coastal Lands received a request for emergency temporary shore protection at Aliomanu Road, Anahola, Kauai identified as Tax Map Key: (4) 4-8-018:028, 029 (see Exhibit A & B).

Aliomanu Road has been undermined by wave action which has exposed a buried waterline and caused the road embankment to collapse. The damaged portion of the road has very little erosion protection and in the past eight (8) months (January-August 2015) the embankment erosion has significantly increased.

The applicant's proposed project involves temporarily placing four (4) 0.75 cubic meter ELCOROCK sandbags against the eroded area that is approximately 10 feet long by 3.5 feet high by 2 feet deep.

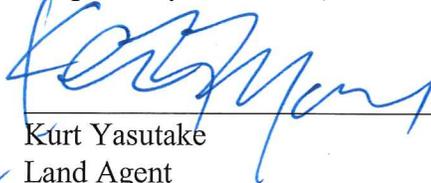
The County of Kauai is pursuing permanent repair of Aliomanu Road, but it has required substantial effort and time in securing the necessary permits and developing final construction plans. The process to develop a permanent solution is targeted to begin in the next few months and be completed in July 2017.

Office of Conservation and Costal Lands has approved emergency shoreline protection KA-16-03 (see Exhibit C). No other comments have been solicited.

RECOMMENDATION: That the Board

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.
2. Authorize the issuance of a Right-of-Entry Permit to the County of Kauai covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Kurt Yasutake
Land Agent

APPROVED FOR SUBMITTAL:



Suzanne D. Case, Chairperson

DAVID Y. IGE
GOVERNOR OF HAWAII



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
OFFICE OF CONSERVATION AND COASTAL LANDS
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

KEKOA KALUHIWA
FIRST DEPUTY

JEFFREY T. PEARSON
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
FISHING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAIHOLOLO ISLAND RESERVE COMMISSION
LAND
STATE PARKS

REF:OCCL:NF

Emergency KA-16-3

Larry Dill, P.E.
County Engineer
4444 Rice Street, Suite 275
Lihue, Hawaii 96766

OCT - 6 2015

SUBJECT: Request for Emergency Temporary Protection of Aliomanu Road, Anahola,
Kauai, Tax Map Key: (4) 4-8-018:028, 029

Dear Mr. Dill,

The Department of Land and Natural Resources (DLNR), Office of Conservation and Coastal Lands (OCCL) has received your letter dated August 27, 2015 for emergency authorization for temporary shore protection comprised of ELCOROCK sandbags on top of a geotextile fabric placed against the eroded area fronting a portion of Aliomanu Road at TMK (4) 4-8-018:028, 029. Aliomanu Road has been undermined by wave action which has exposed a buried waterline and caused the road embankment to collapse. The damaged portion of the road has very little erosion protection and in the past eight (8) months (January-August 2015) the embankment erosion has significantly increased. Further damage may prevent access for residents and emergency vehicles. The purpose of the emergency request is to provide protection with the temporary emergency sandbags until a permanent project can be implemented.

The proposed project involves placing four (4) 0.75 cubic meters ELCOROCK sandbags against the eroded area that is approximately 10 feet long by 3.5 feet high by 2 feet deep. The plan is to lay the sandbags flat on top of MIRAFI 180N geotextile fabric against the erosion bank and stack succeeding layers over the first layer. According to your attached location map, the proposed project will be mauka of the Mean Higher High Water mark. Stored stockpiled sand from river mouth opening projects will be used to fill the sandbags. The sand needs to conform to guidelines for beach sand compatibility in the *DLNR Small Scale Beach Nourishment (SSBN) Instructions for General Application*. The temporary sandbags would be removed before any permanent work is started.

The County of Kauai is pursuing permanent repair of Aliomanu Road but it has required substantial effort and time in securing the necessary permits and developing final construction plans. The process to develop a permanent solution is targeted to begin in the next few months

Exhibit C

Larry Dill, P.E.

Emergency KA-16-3

and be completed in July 2017 per the timeline included in your letter. Temporary sandbags for erosion protection are requested until the permanent project is initiated.

DLNR authorizes the placement of the Emergency Temporary Shoreline Protection along the eroded area fronting Aliomanu Road, in an effort to protect public health, welfare, and safety on the subject property under *Hawaii Administrative Rules (HAR) §13-5-35 Emergency Permits (a)* *“Notwithstanding any provision of this chapter, the chairperson or deputy director of the department in the absence of the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department.”*

The proposed project using four large sand bags for erosion protection is temporary in nature and minor in scope. The temporary protection will not interfere with beach processes or marine organisms and will not create a visual obstruction. Therefore, it may be considered an exempt action under State environmental laws under *HAR §11-200-8* and as provided in the approved *Exemption List for the DLNR, Exemption Class 1: 1. Mitigation of any hazardous conditions that present imminent danger as determined by the Department Director and that are necessary to protect public health, safety, welfare, or public trust resources; and 2. Upon determination by the Department Director that an emergency exists, emergency mitigation and restoration work to prevent damage from continuing to occur and to restore the topographical features and biological resources.*

Terms and Conditions

The DLNR has no objections to the placement of the Emergency Temporary Shoreline Protection described above along the eroded area fronting the subject property, at TMK (4) 4-8-018:028, 029 provided that you adhere to the following Terms and Conditions:

1. It is understood that the Emergency Temporary Shoreline Protection is a temporary response to address a safety hazard to an existing road on the subject property, which is threatened by both chronic and seasonal beach erosion. The material is **authorized as a temporary erosion control measure for three (3) years** from the date of issuance of this letter. Subsequent erosion control efforts that call for modification, other than maintenance of the proposed structure will require a new application. At the end of three years the materials shall be removed;
2. The permittee will submit a completion report for the project to DLNR Office of Conservation and Coastal Lands (OCCL) within ninety (90) days of completion of construction of the temporary structure. It will summarize the construction and detail any deviation from the proposed plans and provide a summary of the beach conditions since installation. The report will also include a photo summary of the temporary structure and beach conditions with documentation of any alterations or repairs;

Larry Dill, P.E.

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3. The permittee shall contact Kauai Land Division at (808) 274-3491 and secure a Right of Entry Permit incorporating the most current terms and conditions for the use of State lands, prior to entering onto State lands for this project;
4. The permittee shall comply with all applicable statutes, ordinances, rules, and regulations of the federal, state, and county governments, and applicable parts of this chapter;
5. The permittee, its successors and assigns, shall indemnify and hold the State of Hawaii harmless from and against any loss, liability, claim, or demand for property damage, personal injury, and death arising out of any act or omission of the applicant, its successors, assigns, officers, employees, contractors, and agents under this permit or relating to or connected with the granting of this permit;
6. The permittee shall comply with all applicable department of health administrative rules;
7. Unless otherwise authorized, any work or construction to be done on the land shall be completed within 180 days of the approval of such use. The permittee shall notify the department in writing at least 24 hours prior to initiating construction and when it is completed;
8. Work shall be conducted at low tide to the most practical extent possible and no work shall occur during high surf or ocean conditions that will create unsafe work or beach conditions;
9. Authorization of the sand used to fill the sandbags is contingent upon review and approval of the sand by the Department. The sand shall meet the following State quality standards:
 - a) The proposed fill sand shall not contain more than six (6) percent fines, defined as the #200 sieve (0.074 mm);
 - b) The proposed beach fill sand shall not contain more than ten (10) percent coarse sediment, defined as the #4 sieve (4.76 mm) and shall be screened to remove any non-beach compatible material and rubble;
 - c) No more than 50 (fifty) percent of the fill sand shall have a grain diameter less than 0.125 mm as measured by #120 Standard Sieve Mesh;
 - d) Beach fill shall be dominantly composed of naturally occurring carbonate beach or dune sand. Crushed limestone or other man made or non-carbonate sands are unacceptable;
11. Appropriate safety and notification procedures shall be carried out. This shall include high visibility safety fencing, tape or barriers to keep people away from the active construction site and a notification to the public informing them of the project. All barriers shall be removed once the project is complete to allow full public access;
12. The applicant shall implement standard Best Management Practices (BMPs), including the ability to contain and minimize silt in nearshore waters and clean up fuel; fluid or oil

Larry Dill, P.E.

Emergency KA-16-3

spills immediately for projects authorized by this letter. Equipment must not be refueled in the shoreline area. If visible petroleum, persistent turbidity or other unusual substances are observed in the water as a result of the proposed operation, all work must cease immediately to ascertain the source of the substance;

13. All placed material shall be free of contaminants of any kind including: excessive silt, sludge, anoxic or decaying organic matter, turbidity, temperature or abnormal water chemistry, clay, dirt, organic material, oil, floating debris, grease or foam or any other pollutant that would produce an undesirable condition to the beach or water quality;
14. The permittee understands and agrees that the permit does not convey any vested right(s) or exclusive privilege;
15. Transfer of ownership of the subject property includes the responsibility of the new owner to adhere to the terms and conditions of this authorization;
16. In issuing the permit, the department and the Chairperson have relied on the information and data that the permittee has provided in connection with the permit application. If, subsequent to the issuance of the permit such information and data prove to be false, incomplete, or inaccurate, this permit may be modified, suspended, or revoked, in whole or in part, and the department may, in addition, institute appropriate legal proceedings;
17. Where any interference, nuisance, or harm may be caused, or hazard established by the use, the permittee shall be required to take measures to minimize or eliminate the interference, nuisance, harm, or hazard;
18. Obstruction of public roads, trails, lateral shoreline access, and pathways shall be avoided or minimized. If obstruction is unavoidable, the permittee shall provide alternative roads, trails, lateral beach access, or pathways acceptable to the department;
19. The activity shall not adversely affect a Federally listed threatened or endangered species or a species proposed for such designation, or destroy or adversely modify its designated critical habitat;
20. The activity shall not substantially disrupt the movement of those species of aquatic life indigenous to the area, including those species, which normally migrate through the area;
21. No contamination of the marine or coastal environment (trash or debris) shall result from project-related activities authorized under this letter;
22. No motorized construction equipment is to be operated in the water at any time;
23. Artificial light from exterior lighting fixtures, including but not limited to floodlights, uplights, or spotlights used for decorative or aesthetic purposes, shall be prohibited if the light directly illuminates or is directed to project across property boundaries toward the

Larry Dill, P.E.

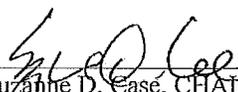
Emergency KA-16-3

shoreline and ocean waters, except as may be permitted pursuant to section 205A-71, HRS. All exterior lighting shall be shielded to protect the night sky;

24. The permittee acknowledges that the approved work shall not hamper, impede, or otherwise limit the exercise of traditional, customary, or religious practices of native Hawaiians in the immediate area, to the extent the practices are provided for by the Constitution of the State of Hawaii, and by Hawaii statutory and case law;
25. Should historic remains such as artifacts, burials or concentration of charcoal be encountered during construction activities, work shall cease immediately in the vicinity of the find, and the find shall be protected from further damage. The contractor shall immediately contact HPD (692-8015), which will assess the significance of the find and recommend an appropriate mitigation measure, if necessary;
26. At the conclusion of work, the applicant shall clean and restore the site to a condition acceptable to the Chairperson;
27. The DLNR reserves the right to impose additional terms and conditions on projects authorized under this letter, if it deems them necessary;
28. Failure to comply with any of these conditions shall render a permit void under the chapter, as determined by the chairperson or board.

Please acknowledge receipt of this approval with a signature in the space provided below. Sign two copies, retaining one and returning the other to DLNR. Should you have any questions, please feel free to contact OCCL Coastal Lands Program Specialist Natalie Farinholt at (808) 587-0399 or via email at Natalie.A.Farinholt@hawaii.gov.

Sincerely,



Suzanne D. Case, CHAIRPERSON
Board of Land and Natural Resources

CC: DLNR Land Div., Kauai
Chairperson
Kauai Dept. of Planning

I concur with the conditions of this letter:

Applicant

Date



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
POST OFFICE BOX 621
HONOLULU, HAWAII 96809

SUZANNE B. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT
KEEDA KALUHIWA
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CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
RESTORATION PRESERVATION
KAOHOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

Exhibit D

November 13, 2015

TO: Land Division Files
THROUGH: Suzanne Case, Chairperson
FROM: Kauai District Land Office

DECLARATION OF EXEMPTION FROM THE PREPARATION OF AN ENVIRONMENTAL ASSESSMENT UNDER THE AUTHORITY OF CHAPTER 343, HRS AND CHAPTER 11-200 HAR, FOR RIGHT-OF-ENTRY PERMIT TO THE COUNTY OF KAUAI, FOR TEMPORARY EMERGENCY SHORE PROTECTION UNDER PSF No. 15KD-180

The following permitted activities are found to be exempted from preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR:

Project Title:

Right-of-Entry Permit to the County of Kauai, for Temporary Emergency Shore Protection.

PSF Number: 15KD-180

Project Description:

The Department of Land and Natural Resources, Office of Conservation and Coastal Lands received a request for emergency temporary shore protection at Aliomanu Road, Anahola, Kauai identified as Tax Map Key: (4) 4-8-018:028, 029.

Aliomanu Road has been undermined by wave action which has exposed a buried waterline and caused the road embankment to collapse. The damaged portion of the road has very little erosion protection and in the past eight (8) months (January-August 2015) the embankment erosion has significantly increased.

The applicant's proposed project involves temporarily placing four (4) 0.75 cubic meter ELCOROCK sandbags against the eroded area that is approximately 10 feet long by 3.5 feet high by

2 feet deep.

The County of Kauai is pursuing permanent repair of Aliomanu Road, but it has required substantial effort and time in securing the necessary permits and developing final construction plans. The process to develop a permanent solution is targeted to begin in the next few months and be completed in July 2017.

According to HAR § 13-5-35 (a), "the chairperson may authorize through an emergency permit any land use deemed to be essential to alleviate any emergency that is a threat to public health, safety, and welfare, including natural resources, and for any land use that is imminently threatened by natural hazards. These actions shall be temporary in nature to the extent that the threat to public health, safety, and welfare, including natural resources, is alleviated (e.g., erosion control, rockfall mitigation). The emergency action shall include contingencies for removal methods, estimates for duration of the activity, and future response plans if required by the department." The proposed project meets all criteria; therefore, it is eligible for an emergency permit.

Consulted Parties:

The Office of Conservation and Coastal Lands has approved emergency shoreline protection KA-16-03. No other comments have been solicited.

Exemption Determination:

After reviewing HAR § 11-200-(8), DLNR has concluded that the activities under this permit would have minimal or no significant effect on the environment and that issuance of the permit is categorically exempt from the requirement to prepare an environmental assessment.

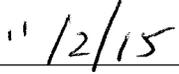
According to the Exemption List for the Department of Land and Natural Resources, as Reviewed approved by the Environmental Council on June 5, 2015, Exemption Class No.1, "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing [HAR § 11-200-8(a)(46)]".

Conclusion:

It is recommended that the Board declare that this project will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment. This permit is for a period of three (3) years.



Suzanne D. Case, Chairperson
Board of Land and Natural Resources



Date

